

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

SZAFERMAN, LAKIND, BLUMSTEIN  
& BLADER, P.C.  
A Professional Corporation  
Quakerbridge Executive Center  
101 Grovers Mill Road, Suite 200  
Lawrenceville, New Jersey 08648  
(609) 275-0400

ATTORNEYS FOR PLAINTIFFS, CATHLEEN YENCHIK AND LAWRENCE YENCHIK

CATHLEEN YENCHIK and LAWRENCE  
YENCHIK, husband and wife,

Plaintiffs,

-vs-

MARK ROSS, D.P.M., ARIA HEALTH,  
JOHN/JANE DOE, ABC CORPORATION  
and XYZ PARTNERSHIP 1-100,  
representing one or more  
fictitious individuals or  
entities, individually, jointly  
and severally, JOHN/JANE DOE, ABC  
CORPORATION, XYZ PARTNERSHIP 101  
- 200, representing one or more  
fictitious persons or entities  
consisting of Directors,  
Officers, Principals, Partners,  
Boards, Board Members or  
Representatives or Agents,  
individually, jointly and  
severally,

Defendants.

COMPLAINT AND JURY DEMAND  
(Electronically Filed)

Plaintiffs, CATHLEEN YENCHIK and LAWRENCE YENCHIK, residing  
at 151 Abernathy Drive, in the City of Trenton, County of Mercer  
and State of New Jersey, by way of Complaint, state:

### JURISDICTIONAL STATEMENT

The United States District Court for the District of New Jersey has original jurisdiction over the claims set forth herein, pursuant to 28 U.S.C.A. § 1332, as these claims involve Defendants representing a diversity of citizenship and the amount in controversy exceeds \$75,000.

### THE PARTIES

1. Plaintiff, CATHLEEN YENCHIK is a citizen of the State of NEW JERSEY, and resides at 151 Abernathy Drive, in the City of Trenton, County of Mercer and State of New Jersey.

2. Plaintiff, LAWRENCE YENCHIK, is a citizen of the State of New Jersey, and resides at 151 Abernathy Drive, in the City of Trenton, County of Mercer and State of New Jersey.

3. Defendant, MARK ROSS, D.P.M. is a physician and surgeon licensed in the State of Pennsylvania, with offices located at 301 Oxford Valley Road, Suite 1106A, in the City of Yardley, County of Bucks and State of Pennsylvania.

4. Defendant, ARIA HEALTH is a hospital/medical facility with a place of business located at 380 North Oxford Valley Road, located in the Township of Langhorne, County of Bucks and State of Pennsylvania.

5. At all times relevant to this litigation, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and

severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, were acting as agents, servants, and/or employees, and were acting with the permission and/or implied consent of the Defendants, MARK ROSS, D.P.M. and/or ARIA HEALTH.

7. At all times relevant to this litigation, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, are unknown corporations both for profit and/or non-profit, who provided healthcare services to Plaintiff.

#### FACTUAL STATEMENT

1. On or about October 30, 2009, Plaintiff, CATHLEEN YENCHIK, consulted Defendant, MARK ROSS, D.P.M., regarding complaints of foot pain. Defendant MARK ROSS, D.P.M. examined and treated Plaintiff on several occasions. On February 24, 2009, Plaintiff, CATHLEEN YENCHIK, underwent surgery performed by Defendant, MARK ROSS, D.P.M. at Defendant, ARIA HEALTH.

2. Defendants MARK ROSS, D.P.M. and/or ARIA HEALTH failed to adhere to the appropriate standard of care during diagnosis, treatment, examination, surgery, and medical procedures.

3. As a result of MARK ROSS, D.P.M. and/or ARIA HEALTH'S failure to adhere to the appropriate standard of care, Plaintiff, CATHLEEN YENCHIK, suffered permanent injuries.

4. On October 27, 2010, Plaintiff underwent surgery, performed by Dr. Pagliaro of Trenton Orthopedic Group, in an attempt to remediate the damage done by Defendants, MARK ROSS, D.P.M. and/or ARIA HEALTH.

#### FIRST COUNT

#### NEGLIGENCE

1. Plaintiff, CATHLEEN YENCHIK, repeats and re-alleges all factual allegations contained in her Factual Statement section as if same were set forth at length herein.

2. Defendants, MARK ROSS, D.P.M. and/or ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, had a duty to Plaintiff, CATHLEEN YENCHIK.

3. Defendants, MARK ROSS, D.P.M., ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 -

200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, breached this duty to Plaintiff by failing to adhere to the appropriate standard of care during diagnosis, treatment, examination, surgery, and medical procedures.

4. This breach of duty by Defendants, MARK ROSS, D.P.M., ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, is the proximate cause of damages to Plaintiff, CATHLEEN YENCHIK.

5. As a result of the negligence, recklessness, and carelessness of the Defendants, MARK ROSS, D.P.M., ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101-200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, Plaintiff, CATHLEEN YENCHIK, was caused to suffer and sustain severe, disabling and permanent injuries, and has and will in the future be caused to

obtain medical treatment and has been and will in the future be caused to refrain from her normal pursuits.

6. This action arises under diversity of citizenship pursuant to 28 U.S.C.A. § 1332.

WHEREFORE, Plaintiff, CATHLEEN YENCHIK, demands judgment against Defendants, MARK ROSS, D.P.M., ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, for:

1. Special damages in a sum in excess of \$75,000.00 (Seventy-five thousand and 00/100 Dollars) according to proof;

2. General damages in a sum in excess of \$75,000.00 (Seventy-five thousand and 00/100 Dollars), according to proof;

3. Compensatory damages;

4. Punitive damages;

5. Interest as allowed by law;

6. Costs of suit;

7. Attorneys fees;

8. For such other and further relief as the court may deem just and proper.

#### SECOND COUNT

1. Plaintiffs, CATHLEEN YENCHIK AND LAWRENCE YENCHIK, repeat

the allegations contained in the First Count and make same part of this Count by reference as if set forth at length.

2. Plaintiff, LAWRENCE YENCHIK, is the husband of Plaintiff, CATHERINE YENCHIK and was married to her at all times pertinent to this cause of action.

3. As a result of the harm suffered by Plaintiff, CATHERINE YENCHIK, Plaintiff, LAWRENCE YENCHIK, suffered a loss of services, a loss of companionship, and a loss of consortium.

4. This action arises under diversity of citizenship pursuant to 28 U.S.C.A. § 1332.

WHEREFORE, the Plaintiff, LAWRENCE YENCHIK, demands judgment, against all Defendants, MARK ROSS, D.P.M., ARIA HEALTH, JOHN/JANE DOE, ABC CORPORATION and XYZ PARTNERSHIP 1-100, representing one or more fictitious individuals or entities, individually, jointly and severally, JOHN/JANE DOE, ABC CORPORATION, XYZ PARTNERSHIP 101 - 200, representing one or more fictitious persons or entities consisting of Directors, Officers, Principals, Partners, Boards, Board Members or Representatives or Agents, individually, jointly and severally, for:

1. Special damages in a sum in excess of \$75,000.00  
(Seventy-five thousand and 00/100  
Dollars) according to proof;

2. For general damages in a sum in excess of \$75,000.00  
(Seventy-five thousand and 00/100 Dollars), according to proof;

3. Interest as allowed by law;

4. Costs of suit;



5. Attorneys fees;

6. For such other and further relief as the court may deem just and proper.

#### **CERTIFICATION**

PLEASE TAKE NOTICE the undersigned attorney certifies that this matter is not the subject of any other action pending in any court or arbitration proceeding nor is any other action or arbitration proceeding contemplated, and all known necessary parties have been joined in this action.

#### **NOTICE OF DEMAND FOR DISCLOSURE**

PLEASE TAKE NOTICE that the undersigned attorney, counsel for the plaintiff, hereby demands that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from any party, including any documents, papers and other materials referred to therein, upon the undersigned attorney, and take notice that this is a continuing demand.

#### **DEMAND FOR ANSWERS TO INTERROGATORIES**

PLEASE TAKE NOTICE that Plaintiffs hereby demand that the Defendants provide answers to interrogatories propounded.

#### **DEMAND TO ANSWER NOTICE TO PRODUCE**

PLEASE TAKE NOTICE that Plaintiffs hereby request that the Defendants respond to the Notice to Produce propounded within the time prescribed by the Court Rules.



**REQUEST FOR DISCLOSURE OF INSURANCE COVERAGES**

PLEASE TAKE NOTICE that demand is hereby made that you respond to the Request for Discovery of Insurance Propounded within the time prescribed by the Court Rules.

**NOTICE OF UTILIZATION OF TIME UNIT METHOD  
OF CALCULATING DAMAGES**

PLEASE TAKE NOTICE that Plaintiffs may utilize the time unit method for calculating damages at the time of trial.

**DESIGNATION OF TRIAL COUNSEL**

PLEASE TAKE NOTICE that attorney, CRAIG J. HUBERT, ESQUIRE, is hereby designated as trial counsel in the above captioned litigation for the firm of SZAFERMAN, LAKIND, BLUMSTEIN & BLADER, P.C.

**JURY DEMAND**

PLEASE TAKE NOTICE that the Plaintiffs hereby demand a trial by jury as to all issues so triable.

ATTORNEYS FOR PLAINTIFF

SZAFERMAN, LAKIND, BLUMSTEIN  
& BLADER, P.C.

BY: S/ Craig J. Hubert, Esq.  
Craig J. Hubert, Esquire

DATED: January 22, 2012